

FILED '11 JAN 28 16:46 USDC-ORP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

GARY MARK WAITE, and ANDREW
ELIAS WILLIAMS,

CV. 10-1244-HU

ORDER

Plaintiffs,

v.

KEVIN DEMER, et al.,

Defendants.

MOSMAN, Judge

On November 17, 2010, I denied plaintiffs' applications to proceed *in forma pauperis*, with leave to amend. Additionally, I advised plaintiffs that, if they submitted amended applications to proceed *in forma pauperis*, this court would then dismiss their "Petition for Peremptory Quo Warranto" on the basis that a *quo warranto* proceeding cannot be prosecuted by a private individual. Plaintiffs were further advised that, if granted leave to proceed *in forma pauperis*, they would be responsible for the payment of the \$350.00 filing fee, when sufficient funds exist in their trust account, pursuant to 28 U.S.C. §§ 1914(a) & 1915(b).

In response, plaintiffs move the court to dismiss this proceeding. Additionally, plaintiffs argue that the appropriate filing fee for a *quo warranto* proceeding is \$5.00 (the filing fee for habeas corpus proceedings), rather than \$350.00 (the filing fee for all other civil actions).

Plaintiffs' motion to dismiss (#9) is GRANTED. This proceeding is DISMISSED, without prejudice. Because no filing fee has been assessed, I decline to address plaintiffs' arguments regarding the appropriate filing fee.

IT IS SO ORDERED.

DATED this 28 day of January, 2011.



Michael W. Mosman
United States District Judge